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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,892	11/28/2000	Kenneth H. Abbott	294438004US1	7813
500	7590	02/07/2006	EXAMINER	
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC			VU, VIET DUY	
701 FIFTH AVE			ART UNIT	
SUITE 6300			PAPER NUMBER	
SEATTLE, WA 98104-7092			2154	

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/724,892

Applicant(s)

ABBOTT ET AL.

Examiner

Viet Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-51,53-67 and 81 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 58-65 is/are allowed.
- 6) ☒ Claim(s) 9-51,53-57,66,67 and 81 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Non-Art Rejections:**

1. The text of 35 U.S.C. 101 cited in the previous office action is hereby incorporated by reference.

2. Claim 53 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 53 that recites a carrier wave for carrying the program instructions is non-statutory for at least the reason that the claimed program is not tangibly embodied in a manner to be executable. It is noted that signals and carrier waves generally are intangible media.

It is suggested that claim 53 to be amended to include tangible media such as computer-readable memory for storing the program instructions.

**Art Rejections:**

3. The texts of 35 U.S.C. 102 and 103(a) cited in the previous office action are hereby incorporated by reference.

4. The rejection of claims 9-10, 13-17, 20-22, 24-51, 53-57 and 66-67 under 35 U.S.C. 102(e) as being clearly anticipated by Johnson et al (6,553,336), mailed 6/14/05, is hereby incorporated by reference.

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5. The rejection of claims 11-12, 18-19, 23 and 81 under 35 U.S.C. 103(a) as being unpatentable over Trusheim et al (6,385,589), mailed 6/14/05, is hereby incorporated by reference.

**Allowable Subject Matter:**

6. Claims 58-65 are allowed over prior art of record.

**Response to Amendment:**

7. Applicant's arguments filed on 12/14/05 with respect to claims 9-51, 53-57, 66-67 and 81 have been fully considered but are not deemed persuasive.

Regarding claim 53, it is noted that, due to a typo error, only claim 52 was identified in the previous 101 rejection. Claim 53 that depends on claim 52 was inadvertently left out of the 101 rejection. However, it should be clear that both claims 52 and 53 are directed to use of intangible media such as data signals and carrier waves to process program instructions. It is again suggested that applicant amend claim 53 to include tangible media such as computer-readable memory for storing the program instructions.

Regarding the art rejections over Johnson and Trusheim, applicant alleges that these are invalid prior arts because

their effective filing dates are later than the effective filing dates of the two parent applications of this present application.

The examiner submits that the present claimed invention cannot claim the benefit of filing dates of the prior applications because these prior applications fail to disclose one or more essential claim limitations such as accepting clients' interest in receiving one or more values from one or more sources and automatically supplying these values to the clients upon receipt of these values from the sources.

Regarding 102 rejection over Johnson, applicant alleges that Johnson does not teach automatically supplying many values of a state attributes to the client based upon indication of the interest from the client because Johnson only teaches sending notifications automatically to the client.

The examiner disagrees. In Johnson, the notification can include many different associated values of the state attributes of the monitored entity. For instance, a client can be automatically notified when the temperature of the monitored device is too high (value A) or too low (value B). Johnson also teaches enabling a client to register for receiving notifications of the state attributes for many different conditions (or values) (see col 19, lines 20-31). Thus, it is

submitted that Johnson's teachings meet the claim limitations. Applicant's attempt to define "value" as a raw reading data from a sensor is not supported by the scope of the claims.

Per claims 20 and 22, applicant also alleges that Johnson's monitoring of a physical environment fails to teach receiving attributes representing information about a computer or a cyber environment of the user.

The examiner disagrees. A physical environment attribute such as computer room temperature represents an attribute of cyber environment of a user. Similarly, a monitored temperature of the computer system represents an attribute about the computer system.

Per claim 61, applicant alleges that Johnson does not teach attributes representing information about the user.

The examiner disagrees. As discussed above, Johnson teaches enabling the user to define user's interest in receiving notifications. These user's interests are seen as attributes representing information about the user.

Regarding the 103 rejection over Trusheim, applicant alleges that Trusheim fails to explicitly teach receiving from the client indication of interest in receiving a notification.

The examiner disagrees. As discussed the final rejection, Trusheim discloses a notification service in which the step of

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accepting or receiving from the client indication of interest in receiving a notification would have been obvious. This is because Trusheim's system is a pay-for-service that cannot be provided automatically without receiving any indication of interest or contract agreement from the user/customer. It is further obvious that such indication of interest or service registration would have included which notifications that the users would have or would not have expected to receive. Moreover, Trusheim also teaches determining the likelihood of a medical risk based upon information received from the sources (see col 4, lines 1-34). Such determination carries varied degrees of accuracy based upon information received at times.

Per claim 18-19 applicant alleges that Trusheim does not teach delivering patient's information to a user/client who is a patient.

The examiner disagrees. The examiner is unable to find the alleged distinction in the present claims because a user and a client are not necessarily the same person.

Finally, per claim 81, applicant alleges that Trusheim does not teach obtaining and using measured attribute values.

The examiner disagrees. As discussed above, Trusheim teaches determining the likelihood of a medical risk based upon

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information received from the sources (see col 4, lines 1-34).

This computed value is considered as a measured attribute value.

**Conclusion:**

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 571-272-3977. The examiner can normally be reached on Monday through Friday from 7:00am to 4:00pm. The Group general information number is 571-272-2100. The Group fax number is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on 571-272-3964.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.



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Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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2/2/06



**VIET D. VU**  
**PRIMARY EXAMINER**